

SENATE BILL 3746

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 38;
Title 53 and Title 63, relative to safeguarding and
monitoring of prescription drugs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 53, Chapter 10, is amended by adding
the following as a new part 4:

Section 53-10-401.

(a)

(1) The board of pharmacy shall designate an official Tennessee prescription form. The form shall be serialized and tamper-resistant. For the purposes of this section, "tamper-resistant" means unable to be altered, copied, or counterfeited. The board of pharmacy may contract with a private vendor to develop and print the official prescription form from a third-party vendor, provided the printer has met security regulations promulgated by the board.

(2) The official prescription forms shall be provided by the board of pharmacy or by the private vendor to registered practitioners and facilities without charge. Each series of prescriptions shall be issued to a specific practitioner in consecutively numbered blocks of fifty (50) and shall only be used by that practitioner. The board shall establish security regulations for the department and the private vendor concerning the procurement of the official prescription forms.

(3) A practitioner authorized to write a prescription in the state shall issue all written prescriptions upon an official prescription form.

(4) A pharmacist shall not fill a written prescription from a Tennessee practitioner unless issued upon official prescription form. Nothing in this section

shall be construed to impact regulations regarding oral, electronic, or out-of-state prescription practices.

(5)

(A) A practitioner or facility shall register with the board of pharmacy in order to be issued official prescription forms. Registration shall be without charge. Registration shall include, but not be limited to:

- (i) The name of a practitioner authorized to prescribe controlled substances;
- (ii) The primary address and the address of additional places of business and;
- (iii) The practitioner's drug enforcement agency number;
- (iv) The practitioner's license number; and
- (v) The serialized prescription blank number.

(B) A practitioner's or facility's registration shall be subject to approval by the board of pharmacy, pursuant to rules promulgated by the board. Any change to a practitioner's or a facility's registered information shall be promptly reported to the board of pharmacy in a manner promulgated by the board.

(6)

(A) A registered facility shall obtain official Tennessee prescription forms for use at the facility and shall assign the forms to registered staff practitioners. The number of official prescription forms issued to a registered practitioner or facility, by the board of pharmacy or the private vendor, shall be a reasonable quantity and at the discretion of the board. Official prescription forms shall be imprinted with:

- (i) The name of the registered practitioner or the registered practitioners at a registered facility;
- (ii) The registered practitioner's drug enforcement agency's identification number;
- (iii) The primary address and the address of additional places of business;
- (iv) The practitioner's license number; and
- (v) The serialized prescription blank number.

(B) An official prescription form is not transferable and shall be used only by the registered practitioner or facility to whom issued.

(7) A registered practitioner or facility shall undertake adequate safeguards and security measures promulgated by the board to assure against destruction, theft, or unauthorized use of an official prescription form. A registered practitioner shall, at minimum, maintain a record of official prescription forms received and establish a system requiring forms be secure pursuant to security measures promulgated by the board. A registered facility shall, at minimum, maintain a record of official prescription forms received, maintain a record of forms assigned to its registered staff practitioners, establish a system requiring forms be secure pursuant to security measures promulgated by the board and require a registered staff practitioner to surrender their assigned forms when the practitioner terminates affiliation with the registered facility.

(8) A registered practitioner or facility shall immediately notify the board of pharmacy, in a manner promulgated by the board, upon their knowledge of the loss, destruction, theft or unauthorized use of an official prescription form. A registered practitioner or facility shall report the failure to receive official

prescription forms to the board of pharmacy within a reasonable time after ordering the forms. A registered practitioner or facility shall immediately notify the department and the diversion investigation unit of the Tennessee bureau of investigation upon their knowledge of prescription diversion or suspected diversion pursuant to the loss, theft, or unauthorized use of an official prescription form.

(9) A violation of this section is a Class E felony. A second or subsequent violation of this section is a Class D felony.

(b) The board, in conjunction with the head of the diversion investigation unit of the Tennessee bureau of investigation, shall issue an annual report on the effectiveness the official Tennessee prescription form.

SECTION 2. Tennessee Code Annotated, Section 53-10-302, is amended by adding the following as a new subdivision:

(8) "Tennessee official prescription forms" means the serialized and tamper-resistant prescription pads.

SECTION 3. Tennessee Code Annotated, Section 53-10-305(a), is amended by deleting the language "and" in subdivision (8) and by adding the following language as a new subdivision (9) and redesignating the existing subdivision (9) as subdivision (10):

(9) State-issued serial number corresponding to the official Tennessee prescription form; and

SECTION 4. Tennessee Code Annotated, Title 38, Chapter 6, Part 1, is amended by adding the following as a new section:

Section 38-6-121.

There is established in the bureau of investigation a drug diversion investigation unit in order to investigate diversion of prescription drugs and to implement aspects of title 53, chapter 10, part 4.

SECTION 5. Tennessee Code Annotated, Section 63-6-236(a), is amended by deleting the second sentence of the subsection and substituting instead the following:

The handwritten prescription order must be issued on a Tennessee official prescription form and contain the name of the prescribing physician or surgeon; the name and strength of the drug prescribed; the quantity of the drug prescribed, handwritten in both letters and numerals; instructions for the proper use of the drug; and the month and day that the prescription order was issued, recorded in letters or in numerals or a combination thereof.

SECTION 6. The board of pharmacy and the drug diversion investigation unit shall report to the general assembly on the status of this act six (6) months after passage.

SECTION 7. Section 1, with the exception of Section 1(a)(4)) and Section 2, shall take effect July 1, 2008, the public welfare requiring it. Section 1(a)(4) and Section 3 shall take effect July 1, 2009, and all other provisions of this act shall take effect July 1, 2008, the public welfare requiring it.